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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/534,454

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Friedrich Kastner

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WENDEROTH, LIND & PONACK, L.L.P.

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SUITE 800

WASHINGTON, DC 20006-1021

EXAMINER

INYARD, APRIL C

ART UNIT

PAPER NUMBER

1794

MAIL DATE

DELIVERY MODE

01/23/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/534,454	KASTNER ET AL.	
	Examiner	Art Unit	
	APRIL C. INYARD	1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☒ Some * c) ☒ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>5-10-2005</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Priority

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Austria on November 28, 2002. It is noted, however, that applicant has not filed a certified copy of the 1779/2002 application as required by 35 U.S.C. 119(b).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later

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invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaule (WO/9956964, with the English equivalent reference US Patent No. 6,688,221 B1) in view of Zeiter et al. (US Patent No. 6,494,491 B1) and Bitner et al. (US Patent No. 5,310,060).

Regarding **Claims 1-4, 8 and 19-20**, Kaule discloses a security feature that can be designed as a label or transfer foil that is transferred from a separation layer on a carrier substrate and adhered via an adhesion coating onto an object (*'221; Col 4, lines 43-53*) to provide high counterfeiting security for a variety of packages including those in the electronics industry including data media such as compact discs (*'221; Col 8, lines 37-43*).

Kaule teaches a hologram foil with negative writing wherein a carrier foil is coated with a lacquer, embossed with relief structures to provide a diffraction pattern where this embossed structure is subsequently filled in with ink or negatively-printed on, covered with a metal layer and treated to provide an optical holographic metallized security feature (*'221; Fig. 1; Col 6, lines 19-41*), where the carrier foil is defined as all kinds of materials such as plastics, metals or papers of any composition (*'221; Col 3, lines 60-64*). Kaule teaches use of UV-curable lacquers (*'221; Col 6, line 62*) and that embossing of UV-curable lacquers is well-known in the security foil (i.e. hologram, cinegram, pixegram) art (*'221; Col 1, lines 35-41*). The Examiner notes that one of ordinary skill in the art would appreciate that holographic security features exhibit chromatic tilt effects.

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With respect to **Claim 7**, Kaule further discloses that the embossed surface features of the security features, independently of the other functional properties (e.g. optical), can be used to impart patterns in the form of letters, symbols, geometric shapes and the like (*'221; Fig. 4; Col 8, lines 17-19 and 29-31*).

With respect to **Claims 4-6**, Kaule additionally teaches that the security feature may include one or several layers with electrical, magnetic, thermochromic, chromatic tilt (iridescent), luminescent, and other special properties (*'221; Col 4, lines 1-8*).

With respect to **Claims 12-15**, as discussed above, Kaule teaches that it is known in the art of making security features for application to objects such as packaging films to use UV-curable lacquers where surface features are provided by embossing while the lacquer is cured optionally provided with further functional layers followed by application of an adhesive coating and cutting to size (*'221; Col 1, lines 35-62; Col 8, lines 37-40*).

Kaule (*'221*) teaches a security feature that can be applied to a packaging film that substantially meets the limitations of Claim 1.

Kaule does not specifically teach that the UV-curable lacquer is "deep-drawable" or, that the composite packaging film and applied security feature is subsequently deformed by deep drawing.

However, Zeiter (*'491*) discloses a packaging material that has defined areas with one or more security features that are of holographic images or text (*'491; Col. 2, lines 28-33*). The security features taught by Zeiter may either be directly printed on or laminated onto the packaging film (*'491; Col 3, lines 24-30*). Zeiter discloses that these packaging films with security features may form items in the form of packaging materials or aids to packaging such

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that the surface or area of surface on the item results in the specific intended optical effect on changing the angle of viewing and forgery e.g. by photo-copying would be recognized immediately (*'491; Col 4, lines 14-16 and 39-44*). Zeiter further teaches that the packaging forms may specifically be formed into packages such as push-through packs or blister packs, by stamping, sealing, deep drawing and/or stretch drawing (*'491; Col 4, lines 14-24*). The Examiner notes that blister packs taught by Zeiter may be in the form of a strip having multiple blisters, and therefore a strip pack.

Furthermore, with respect to **Claims 10-11**, Bitner (*'060*) teaches that cold-formable packaging methods are known to one having ordinary skill in the art as a conventional forming method of blister and strip (blister sheet) packaging (*'060; Col 13, lines 55-60*).

At the time of the invention, it would have been obvious to one having ordinary skill in the art to modify the packaging film having at least one security feature as taught by Kaule (*'221*) with the method of deep-drawing taught by Zeiter (*'491*) or cold-forming taught by Bitner (*'060*) because the packaging films taught by Kaule and Zeiter are capable of being cold-formed or draw-formed and made into a blister sheet or package, common methods used to make such types of packages, and it would be obvious to include at least one security feature as this advantageously helps prohibit forgery and counterfeiting of such packaged products.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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- a. Smits et al. (US Pat No. 4837061) discloses a tamper proof system for blister packages (*Fig. 8*).
- b. Murray (US Pub. 2004/0029030) teaches a highly versatile image containing product that can be used as a security feature in all kinds of packaging wherein the security feature includes fragments of DNA (biomarker) as identifiers.
- c. Butland (US Pub. 2002/0167161) teaches use of biomarkers to label objects for their identification purposes in case of theft or counterfeiting.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to APRIL C. INYARD whose telephone number is (571) 270-1245. The examiner can normally be reached on Monday - Thursday 8:00 AM - 5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald Tarazano can be reached on (571) 272-1515. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/D. Lawrence Tarazano/
Supervisory Patent Examiner, Art Unit 1794

APRIL C. INYARD /A. C. I./
Examiner, Art Unit 1794